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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,532	11/29/1999	SYLVIE LURIA	916/13	6388

7590

09/22/2005

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EXAMINER

KATCHEVES, KONSTANTINA T

ART UNIT

PAPER NUMBER

1636

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/449,532

Applicant(s)

LURIA, SYLVIE

Examiner

Konstantina Katcheves

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43, 45-108 and 110-134 is/are pending in the application.
- 4a) Of the above claim(s) 1-23, 49-91 and 114-135 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-43, 45, 46, 48, 92-108, 110, 111 and 113 is/are allowed.
- 6) ☒ Claim(s) 47 and 112 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The instant application contains a power of attorney to Sol Sheinbein who has been excluded from practice before the Patent and Trademark Office (Office). The Office does not communicate with attorneys or agents who have been suspended or excluded from practice. Accordingly, the Office action is being mailed to the address of the inventor first named in the application.

Applicants may, of course, file a new power of attorney in the application to have a registered attorney or agent represent them before the Office. In the absence of an attorney or agent of record, all amendments and other papers filed in the application must be signed: (1) by all named applicants unless one named applicant has been given a power of attorney to sign on behalf of the remaining applicants, and the power of attorney is of record in the application; or (2) if there is an assignee of record of an undivided part interest, by all named applicants retaining an interest and such assignee; or (3) if there is an assignee of the entire interest, by such assignee; or (4) by a registered patent attorney or agent not of record who acts in a representative capacity under the provisions of 37 CFR 1.34(a). The Office will not hold telephone interviews with or send communications to a registered patent attorney or agent, acting in a representative capacity under 37 CFR 1.34, i.e., who is not of record in the application.

Applicants may obtain a list of registered patent attorneys and agents located in their area by writing to the Commissioner of Patents and Trademarks, Box OED, Washington, DC 20231, or by calling the Office of Enrollment and Discipline at (703) 306-4097.

***Status of the Claims***

Claims 1-43, 45-108 and 110-134 are pending in the present application. Claims 1-23, 49-91 and 114-135 are withdrawn from consideration. Claims 24-43, 45-48, 92-108 and 110-113 are currently under examination. This Office action is in response to Applicant's amendment and remarks filed 25 May 2005.

***Response to Amendment***

***Specification***

With regard to Applicant's objection that the figures contain acronyms not defined in the brief description of the drawings, Applicant states that "acronyms such as LS and CRS do not appear in the description of Figures 1-4, nor do they appear in any of the Figures." Applicant appears to have overlooked the information conveyed in the figures themselves. Applicant is advised to consider these figures more carefully because the acronyms referred to in the prior office action are in fact present.

***Abstract***

Applicant's amendment of the abstract is acknowledged.

***Claim Objections***

Applicant's amendments correcting the claim objections are acknowledged.

***Claim Rejections - 35 U.S.C. 112***

The rejections under 35 U.S.C. 112, second paragraph has been withdrawn in view of Applicant's amendment filed 31 May 2005.

Claims 47 and 112 stand rejected under the written description requirement of 35 U.S.C. 112, first paragraph as containing new matter. Applicant argues that support is found in the specification for the limitation "at least 5 amino acid portion of a characterized polypeptide." Applicant points to the language of page 14, line 18 to page 15, line 2 of the specification disclosing: "each of the plurality of polypeptides is of a specific size selected from a size range of approximately 5 amino acids to approximately 1000 amino acids." This support very specifically discloses an upper limit for the length of the amino acid fragment which is not found in the limitations of the claims. Therefore, the claimed limitation is not supported by the specification and is new matter.

***Allowable Subject Matter***

Claims 24-43, 45, 46, 48, 92-108, 110, 111, and 113 are allowed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konstantina Katcheves whose telephone number is (571) 272-0768. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday 7:30 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel, Ph.D. can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Konstantina Katcheves  
Examiner  
Art Unit 1636



JAMES KETTER  
PRIMARY EXAMINER